

From: Brian Showalter
To: Microsoft ATR
Date: 1/28/02 4:30pm
Subject: Microsoft Settlement

As a United States citizen and experienced computer professional who has at times been compelled to work with Microsoft products, I would like to express my opposition to the settlement that has been proposed for the USDOJ's antitrust lawsuit against Microsoft. I feel that the terms of the settlement as currently specified are weighted far too heavily in favor of Microsoft, and that they will do nothing to prevent Microsoft from continuing to abuse its monopoly position to stifle competition and lock customers into its products. The terms also significantly underestimate the lengths to which Microsoft has shown it is willing to go to root out loopholes in any agreements it enters into and exploit them in such a way that any intended restrictions on its behavior are effectively neutralized. I also feel that the terms will do literally nothing to ease the market barrier to entry for new products, particularly open-source products such as the Linux operating system, which may happen to directly compete with Microsoft's offerings.

There are a number of problems with the settlement which others have outlined and on which I will not go into further details. However, I am dismayed by the extent to which the proposed settlement focuses almost completely on attempting to restrict Microsoft's behavior on the Windows desktop and middleware platforms, to the virtual exclusion of server platforms and other operating system products that are offered or soon to be offered by Microsoft. In particular, the name "Windows" is mentioned 56 times in the document, yet no mention is made of the embedded operating system market or of Microsoft's explicitly stated intention to replace the Windows desktop and server platform with the .NET initiative. Furthermore, the definitions of "operating system," "personal computer," "Microsoft Platform Software," and "Windows Operating System Product" refer entirely to desktop operating systems intended for use by a single user at a time. This loophole would have the effect of rendering Section III.A moot in its entirety should Microsoft attempt to retaliate against an OEM that is attempting to market a competing SERVER platform on its products. Additionally, the proposed settlement does nothing to preclude Microsoft from dropping the Windows brand name altogether and continuing their customer lock-in, competition-stifling and monopoly-extending behavior on a similar but differently named platform.

Dan Kegel has done an excellent analysis which may be found online at (<http://www.kegel.com/remedy/remedy2.html>). Mr.

Kegel's site also contains links to several other very compelling analyses. Due to the flaws which I and others have pointed out, the settlement as it is currently written does not serve the public interest and should not be accepted without considerable revisions to ensure that the market is not tilted unfairly in Microsoft's favor.

Thank you for your time and for considering my point of view.

Sincerely,

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